

V. Brandon McGrath

From: Michael Roberts [mroberts@Graydon.com]
Sent: Tuesday, April 27, 2004 10:32 AM
To: William R. Ellis
CC: ckrudy@aol.com; Michael Roberts; ematan@mgwlaw.com
Subject: RE: Overdue Discovery and Depositions

BIG BROTHER;

I AM LEAVING THE OFFICE NOW FOR AN ENGAGEMENT AT MY DAUGHTER'S SCHOOL. I WILL RETURN AT 1 P.M.

I DO HAVE LITTLE REGARD FOR LAWYERS THAT HAVE NO REGARD FOR PROFESSIONALISM, ETHICS, OR THE TRUTH. IF THAT MEANS TO YOU THAT I HAVE "EMOTIONAL DIFFICULTIES" WITH YOU SO BE IT. ALL LAWYERS I KNOW CALL ME BEFORE THEY SCHEDULE DEPOSITIONS IN CALIFORNIA ON 7 DAYS NOTICE. ALL LAWYERS I KNOW PROVIDE DISCOVERY.

AND THIS CASE IS NOT GOING TO BE RESOLVED ON MOTIONS. YOUR CLIENT HAS IN BAD FAITH DENIED BENEFITS IT OWES BY CONTRACT. WE INTEND TO PROCEED WITH DISCOVERY AS ALL PARTIES AND COUNSEL PREDATING BIG BROTHER'S INVOLVEMENT AGREED TO DO.

YOUR PAL,
 MIKE

Michael A. Roberts
 Graydon Head & Ritchey LLP
 1900 Fifth Third Center
 511 Walnut Street
 Cincinnati, Ohio 45202-3157
 Direct Dial (513) 629-2799
 Fax (513) 651-3836
 mroberts@graydon.com
 www.graydon.com

>>> "William R. Ellis" <WREllis@WoodLamping.com> 04/27/04 10:28AM >>>

Mr. Roberts, It is apparent that you have some emotional difficulties in dealing with me on these cases. I would appreciate you addressing me in some professional manner as opposed to the telephonic name calling and written sarcasm. I am willing to work with you in attempting to resolve the discovery issues in a manner which is both fiscally responsible and practically achievable. As I told you on the phone and as I told Mr. Matan, I filed the notice of the expert's deposition solely to preserve my right to take him and would be happy to work with both of you on an alternative date. Per your advise, I am now advised that you are the lead counsel on this case and that all communication is to be accomplished through you. I will adhere to that policy unless advised otherwise.

I would also suggest that this is a case of contract interpretation currently pending cross motions for Summary Judgment. The ruling of the court on these motions will probably end this matter and I believe that it is in the best interests of both of our clients to withhold spending tons of money on discovery and discovery issues prior to the ruling. The purpose of our function, as I see it, is to resolve disputes with the least expense to our clients. In this matter, the issue is clearly one of law and the courts ruling should resolve any outstanding dispute between our respective clients.

As to your notices of 12 depositions of people from Massachusetts, North Carolina and Missouri, all set for your office on one to three days notice is obviously impossible. I will be happy to work with you to arrange any appropriate depositions in a way that is fiscally responsible to all concerned.

Per your instructions I have called Judge Hogan's chambers to request a conference today to resolve the issue of the depositions.

-----Original Message-----

From: Michael Roberts [mailto:mroberts@Graydon.com]
Sent: Tuesday, April 27, 2004 9:35 AM
To: Peter M. Burrell; William R. Ellis
Cc: Michael Roberts

Big B:

Attached is our letter concerning long overdue discovery and depositions that have been sought for months. Where is the privilege log? Also, ensure that your client produces all electronically stored information on harddrive and tapes from back-up.

All my best, Mike

Michael A. Roberts
Graydon Head & Ritchey LLP
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511 Walnut Street
Cincinnati, Ohio 45202-3157
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www.graydon.com